

Stakeholder Dialogue Phase II - Burden Reduction Options

EPA initiated a Stakeholder Dialogue process in September 2002, to identify improvements to the Toxics Release Inventory (TRI) and to develop opportunities to reduce the burden on reporting facilities. A primary goal of this effort by EPA is to reduce burden associated with TRI reporting while at the same time continuing to provide valuable information to the public consistent with the goals and statutory requirements of the TRI program.

This paper discusses, in broad overview, a number of burden reduction options associated with TRI reporting. EPA is looking to more fully explore these broadly outlined options with the intention of identifying a specific burden reduction initiative that effectively lessens the burden on facilities but at the same time ensures that TRI continues to provide communities with the same high level of significant chemical release and other waste management information.

While the Agency is genuinely interested in pursuing burden reduction, the mere inclusion of an option in this paper does not mean that the Agency has already determined the option to be technically, practically, and legally feasible. Instead, each option included in this paper is intended to encourage thoughtful comment that develops a meaningful burden reduction initiative that is technically, practically, and legally feasible.

EPA is requesting comment on the following options:

- Higher reporting thresholds for small businesses;
- Higher reporting thresholds for a category of facilities or class of chemicals with small reportable amounts;
- Expanded eligibility requirements for the Form A Certification Statement, through either a higher alternate reporting threshold, a higher annual reportable amount threshold, and/or a revised definition of the annual reportable amount threshold. This option could be combined with an enhanced Form A that provides range estimates for a subset of the full release and other waste management information included on the Form R;
- A new short form for facilities that are able to certify that they have had no significant change in releases and other waste management quantities relative to a designated baseline year;
- Use of range reporting for Section 8 of the Form R.

EPA is also engaged in an effort to improve the Toxics Release Inventory - Made Easy (*TRI-ME*) software, and is soliciting comments on specific enhancements that would reduce the burden of TRI reporting. Finally, EPA is soliciting suggestions for any other options that could reduce burden, while continuing to provide the public with valuable information.

General Background on TRI:

The TRI is a publicly available EPA database that contains information on toxic chemical releases and other waste management activities reported annually by certain covered industry groups as well as federal facilities. This inventory was established under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 and expanded by section 6607 of the Pollution Prevention Act (PPA) of 1990. Among the requirements of the PPA is a mandate to expand TRI to include additional information on toxic chemicals in waste and to include information on source reduction and other waste management methods. Beginning in 1991, covered facilities were required to report quantities of TRI chemicals recycled, combusted for energy recovery, and treated on- and off-site. Under Executive Orders 12856 and 13148, federal facilities were required to report under EPCRA section 313 and the PPA starting with the 1994 reporting year.

Facilities that meet all of the following criteria are required to report to TRI:

The facility has 10 or more full-time employee equivalents (*i.e.*, a total of 20,000 hours or greater; *see* 40 CFR 372.3); and

The facility is included in Standard Industrial Classification (SIC) Codes 10 (except 1011, 1081, and 1094), 12 (except 1241), 20–39, 4911 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4931 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4939 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4953 (limited to facilities regulated under RCRA Subtitle C, 42 U.S.C. section 6921 *et seq.*), 5169, 5171, and 7389 (limited to facilities primarily engaged in solvents recovery services on a contract or fee basis), or, under Executive Order 13148, federal facilities regardless of their SIC code; and

The facility manufactures (defined to include importing), processes, or otherwise uses any EPCRA section 313 (TRI) chemical in quantities greater than the established threshold in the course of a calendar year.

Facilities that meet the above criteria must file a Form R report or in some cases, may submit a Form A Certification Statement (see below) for each listed toxic chemical for which the criteria are met. As specified in EPCRA section 313(a), the report for any calendar year must be submitted on or before July 1 of the following year. For example, reporting year 2002 Form Rs should have been postmarked on or before July 1, 2003.

The list of toxic chemicals subject to TRI can be found at 40 CFR section 372.65. This list is also published every year as Table II in the current version of the *Toxic Chemical Release Inventory Reporting Forms and Instructions*. The current TRI chemical list contains 582 individually listed

chemicals and 30 chemical categories (including 3 delimited categories containing 58 chemicals). Under EPCRA section 313(d) chemicals may be added to or deleted from the list of reportable toxic chemicals. EPA has added chemicals to the TRI list, including 286 chemicals and chemical categories added to the TRI chemical list in a 1994 rulemaking. More recently, in the 1999 persistent bioaccumulative toxic (PBT) chemical rulemaking EPA added seven chemicals and two chemical compound categories, including dioxin and dioxin-like compounds, to the list of toxic chemicals subject to TRI reporting under EPCRA section 313.

The 1999 PBT chemical rule and the subsequent 2001 TRI lead rule also classified chemicals already on the TRI list as PBT chemicals. As part of these rulemakings, the Agency lowered the reporting thresholds for manufacture, process, and otherwise use of the PBT chemicals listed at 40 CFR section 372.28.

As discussed above, to determine if compliance with EPCRA section 313 is required a facility must determine if it meets three criteria. With regard to the activity threshold criterion, the facility must determine if it manufactures (defined to include importing), processes, or otherwise uses any EPCRA section 313 chemical in quantities greater than the established threshold in the course of a calendar year. For non-PBT chemicals the thresholds for manufacturing and processing are 25,000 pounds and the otherwise use threshold for non-PBT chemicals is 10,000 pounds. Section 313(f)(2) of the statute also provides the Agency with the authority to change reporting thresholds. Pursuant to the 1999 and 2001 PBT chemical rules, the reporting thresholds for those TRI chemicals classified as PBT chemicals at 40 CFR section 372.28 were lowered. Specifically, for those listed PBT chemicals found to be persistent and bioaccumulative the reporting thresholds were lowered to 100 pounds for manufacture, 100 pounds for process, and 100 pounds for otherwise use. The thresholds for the subset of PBT chemicals found to be highly bioaccumulative and highly persistent were lowered to 10 pounds for manufacture, 10 pounds for process, and 10 pounds for otherwise use. For dioxin and dioxin-like compounds the thresholds were lowered to 0.1 gram for manufacture, 0.1 gram for process, and 0.1 gram for otherwise use. Additionally, for those chemicals listed at section 372.28 the 1999 and 2001 PBT chemical rules eliminated the *de minimis* exemption (except for supplier notification purposes), range reporting, and the Form A Certification option.

Note that any revision to the manufacture, process, or otherwise use threshold amounts that trigger TRI reporting must follow the requirement of section 313(f)(2) that “[s]uch revised threshold shall obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to the requirements of this section. The amounts established under this paragraph may, at the Administrator’s discretion, be based on classes of chemicals or categories of facilities.” 42 U.S.C. § 11023(d)(2).

With regard to the SIC Code criterion, Congress initially required the manufacturing sector (Standard Industrial Classification (SIC) Codes 20 - 39) to report to TRI. However, at EPCRA section 313(b), Congress provided EPA with authority to add or remove industry sectors. In 1997, EPA issued a final rule that added seven industry groups to the list of facilities subject to

the reporting requirements of section 313. The industry groups that were added by that rule are: metal mining; coal mining; electric utilities; commercial hazardous waste treatment, chemicals and allied products-wholesale; petroleum bulk terminals and plants-wholesale; and solvent recovery services.

Under the employee threshold criterion, EPCRA section 313(b) provides that "[t]he requirements of this section shall apply to owners or operators of facilities that have 10 or more full-time employees. . . ." There is no provision in the statute that allows the Agency to modify the employee threshold.

History of Burden Reduction Efforts in the TRI Program:

Throughout the history of the TRI Program the Agency has implemented measures to reduce the TRI reporting burden on the regulated community. Through a range of compliance assistance activities, such as the *Toxic Chemical Release Inventory Reporting Forms & Instructions* (which is published and mailed every year), the industry training workshops, the chemical-specific and industry-specific guidance documents, and the EPCRA Call Center (a call hotline), the Agency has shown a commitment to enhancing the quality and consistency of reporting and assisting those facilities that must comply with EPCRA section 313.

EPA has also tried to reduce the burden associated with the reporting requirements. Two examples are the Toxics Release Inventory - Made Easy (*TRI-ME*) software and the Form A Certification Statement.

EPA's award-winning Toxics Release Inventory - Made Easy software, otherwise known as "*TRI-ME*" (<http://www.epa.gov/tri/report/trime/>), is an interactive, intelligent, user-friendly software tool that guides facilities through the TRI reporting process. By leading prospective reporters through a series of logically ordered questions, *TRI-ME* facilitates the analysis needed to determine if a facility must complete a Form R report for a particular chemical. For those facilities required to report, the software provides guidance for each data element on the Form R. *TRI-ME* also has a one-stop guidance feature, the TRI Assistance Library, that allows keyword searches on the statutes, regulations, and many EPCRA section 313 guidance documents. Finally, *TRI-ME* checks the data for common errors and then prepares the forms, on paper, on magnetic media, or electronically sends the information to EPA over the Internet via EPA's Central Data Exchange (CDX). In the spring of 2003, EPA distributed approximately 25,000 copies of *TRI-ME* in preparation for the 2002 reporting year deadline of July 1, 2003. Approximately 90% of the roughly 84,000 Form Rs filed in 2003 were prepared using the *TRI-ME* software.

In 1994, as a means to reduce burden, EPA established through rulemaking the Form A Certification Statement based on a 1 million pound alternate threshold. This burden reducing measure is based on an alternate manufacture, process, or otherwise use threshold for those facilities with low annual reportable amounts of a listed toxic chemical. Specifically, a facility may apply an alternate manufacture, process, and otherwise use threshold of 1 million pounds per year

to a toxic chemical if the facility has an annual reportable amount of that toxic chemical not exceeding 500 pounds for the combined total quantity released at the facility, treated at the facility, recovered at the facility as a result of recycle operations, combusted for the purpose of energy recovery at the facility, and transferred off-site for recycling, energy recovery, treatment, and/or disposal. This combined total corresponds to the quantity of the toxic chemical in production-related waste, *i.e.*, the sum of sections 8.1 through and including section 8.7 on the Form R. This burden reducing measure was established in response to petitions received from the U.S. Small Business Administration Office of Advocacy and the American Feed Industry Association.

EPA is interested in continuing to reduce reporting burden associated with TRI reporting obligations. The following options are intended to promote discussion on burden reduction opportunities aimed at developing an initiative that both provides meaningful burden reduction and is consistent with the goals and statutory requirements of the TRI program.

Option #1 - Higher Reporting Thresholds for Small Businesses

Discussion and Questions:

One option for reducing burden on the regulated community would be to modify the reporting thresholds for small businesses. Congress has recognized through the Regulatory Flexibility Act and other statutes that small businesses often bear a disproportionate burden for complying with regulatory requirements. Recognizing this potential burden and the possibility that smaller businesses may have smaller reportable amounts, the Agency is exploring the option of providing small businesses with higher reporting thresholds.

Note that the statute itself already contains a type of small business exemption insofar as reporting is only required of facilities with the equivalent of 10 or more full-time employees. According to the US Census' County Business Patterns, 40 - 50% of facilities in most covered industries have fewer than 10 employees (<http://www.census.gov/prod/www/abs/cbptotal.html>).

Under this burden reduction option consideration would have to be given to the specific criteria to be used to define "small business" as well as the actual revised reporting thresholds that would apply. Small business might be defined based on number of employees (*e.g.*, < 20), annual production (*e.g.*, < \$5 million), and/or SBA's size standards for different industry classifications (<http://www.sba.gov/size>). Under this approach to burden reduction the category of facilities identified would not have to report to TRI if the revised, higher activity thresholds were not exceeded.

One issue raised by this approach involves the relationship between the size of the business and the quantities released or otherwise managed as waste. While in general, small facilities may have less waste and smaller reportable quantities than larger ones, not all small facilities will have proportionally smaller releases and other waste management of toxic chemicals than large

facilities. Thus, in determining the revised reporting thresholds, EPA may need to consider factors other than the number of employees or production level at the facility. In addition, large companies may have small facilities (in terms of employees or production levels) that still have access to the resources of the parent company. In other words, changes in thresholds solely based on number of employees or production levels at the facility may provide burden reduction to businesses that are not necessarily small. This concern could be addressed by providing an alternate threshold to facilities based on the size of their parent company, rather than the facility itself. Appendix A provides information on numbers of companies, facilities, and forms and on quantities released and otherwise managed as waste for various definitions of "small business." It shows, for example, that providing higher reporting thresholds for facilities owned by a parent company meeting the SBA small business definition for its industry category could eliminate reporting by 31% of facilities accounting for 4% of total releases and 11% of total production-related waste.

Questions: EPA is seeking comment on whether it should consider raising the chemical reporting thresholds for small businesses, and on how small businesses should be identified for purposes of this option. EPA is looking for comment on all aspects of this approach to burden reduction. Commenters are encouraged to include data and other supporting information. In particular, EPA is requesting comment on the specific criteria to be used in defining the "small business" eligible for this option as well as the actual revised reporting thresholds that would apply. With regard to the criteria for defining small businesses, EPA is seeking comment on whether number of employees, annual production, SBA small business definition by industry classification (<http://www.sba.gov/size>) or some other criterion should be used. EPA is requesting that comments include a rationale for the specific small business definition and the higher reporting thresholds proposed. EPA is also interested in comment on whether there are specific sectors or categories of small businesses that tend to have large releases or other waste management quantities relative to employment or production levels and should thus not be eligible for this option. Commenters are also encouraged to discuss how the proposed revisions would provide meaningful burden reduction, affect the practical utility of the TRI data, and the complexity of the reporting requirements, and be consistent with the goals and statutory requirements of the TRI program.

Option #2 - Higher Reporting Thresholds for a Category of Facilities or Class of Chemicals with Small Reportable Amounts

Discussion and Questions:

One option for reducing burden on the regulated community would be to modify the reporting thresholds for a category of facilities and/or class of chemicals with small reportable amounts. The focus would be on some identifiable category of facilities that generally have small release and other waste management quantities, either for all toxic chemicals or for some class of toxic chemicals.

With regard to a category of facilities, EPA is specifically interested in whether there is a particular industry sector (or some other category of facilities) that lends itself to burden reduction through higher reporting thresholds because the majority of facilities in the sector or category do not report significant release and other waste management quantities. This might be true for toxic chemicals generally, or only for a specific chemical or class of chemicals. In such a situation, there might be significant burden reduction with relatively little loss of information by providing a higher reporting threshold for the specific sector(s) or sector/chemical combination(s). Similarly, there may be a specific class of chemicals for which a few large reporters account for the great majority of releases and other waste management, and the remaining reporters account for only a small percent of the national totals. In such a case, higher reporting thresholds might provide significant burden reduction with relatively little loss of information.

Questions: EPA is seeking comment on whether it should consider raising the chemical reporting thresholds for a specific category of facilities and/or a specific class of chemicals. EPA is looking for comment on all aspects of this approach to burden reduction. Commenters are encouraged to include data and other supporting information. In particular, EPA is requesting comment on the specific category of facilities and/or class of chemicals proposed for this option as well as the actual revised reporting thresholds that would apply to such category and/or class. EPA is requesting that comments include a rationale for the specific category of facilities and/or class of chemicals and the higher reporting thresholds proposed. Commenters are also encouraged to discuss how the proposed revisions would provide meaningful burden reduction, affect the practical utility of the TRI data and the complexity of reporting requirements, and be consistent with the goals and statutory requirements of the TRI program.

Option #3 - Expanding Eligibility for the Form A Certification Statement

Discussion and Questions:

On November 30, 1994, EPA published a final rule (59 FR 61488) that provides qualifying facilities an alternate threshold of 1 million pounds. Eligible facilities wishing to take advantage of this option may certify on a simplified two-page form referred to as the Form A Certification Statement that they meet the eligibility requirements and they then do not have to submit a Form R. The “Alternate Threshold for Facilities with Low Annual Reportable Amounts,” provides facilities otherwise meeting EPCRA section 313 reporting thresholds but that do not exceed 500 pounds for the total “annual reportable amount” (defined below) for a chemical, an optional threshold for the amounts manufactured or processed or otherwise used of 1 million pounds for that chemical. If facilities in this category do not exceed 1 million pounds for a specific toxic chemical they may certify that they meet the Form A Certification Statement criteria and may file for the chemical a Form A Certification Statement in lieu of a Form R. The total “annual reportable amount” is equal to the combined total quantity released at the facility (including disposed within the facility), treated at the facility (as represented by amounts destroyed or converted by treatment processes), recovered at the facility as a result of recycle operations, combusted for the purpose of energy recovery at the facility, and amounts transferred from the

facility to off-site locations for the purpose of recycling, energy recovery, treatment, and/or disposal. This combined total corresponds to the quantity of the toxic chemical in production-related waste, *i.e.*, the sum of sections 8.1 through and including section 8.7 on the Form R.

The Form A Certification Statement provides identifying information about the facility and indicates that the total production-related waste for the specific toxic chemical is not greater than 500 pounds. Detailed breakdowns of releases and other waste management activities, including specific environmental media, and specific quantities, which are included on the Form R, are not included in the Form A Certification Statement.¹

Over the years, commenters have questioned whether the eligibility criteria for the Form A Certification could be expanded without significantly compromising the utility of the TRI data. For example, the eligibility requirements for the Form A could be expanded by: (1) raising the 1 million pound alternate threshold; and/or (2) modifying the 500 pound “annual reportable amount” criterion used to define the category of facilities eligible for the alternate threshold. Table 3 of Appendix B of this paper contains several alternative “annual reportable amount” thresholds (*i.e.*, 1,000 pounds, 2,000 pounds, and 5,000 pounds) and for each alternative provides the quantities of both total production-related waste and total releases nationwide that would no longer be reported on the Form R. Another way to modify the “annual reportable amount” criterion is to change the waste management activities included in this criterion. For example, the annual reportable amount could be modified to only include releases but not the other waste management activities (*e.g.*, recycling, energy recovery). Tables 4 and 5 in Appendix B show the effects of using alternate definitions of the annual reportable amount, for several different threshold levels, on Form A eligibility and on the quantities of both total production-related waste and total releases nationwide that would no longer be reported on the Form R. EPA notes that changing the definition of annual reportable amount in this way might affect facility choices regarding waste generation and management, and this could have implications (both positive and negative) for pollution prevention efforts at facilities.

One possibility to partially compensate for the detailed information that would no longer be reported on Form R if the eligibility requirements for the Form A Certification were expanded would be to develop a modified Form A Certification Statement, with all of the same facility-specific identification information, but that also includes some additional range estimate information on releases to specific environmental media and/or other specific waste management activities, such as treatment, recycling, and energy recovery. This could enhance the utility of the Form A, by providing more detailed information on the releases and other waste management

¹ The Form A Certification Statement does not include information on: actual quantities of TRI chemicals released to the environment or transferred off-site, information on releases to specific environmental media, the use of on-site waste management methods, and whether the TRI chemical is manufactured, processed or otherwise used at the facility.

activities of eligible facilities while still not requiring the level of detail required on the Form R.

Finally, in considering burden reduction options associated with the Form A Certification Statement, one should note that the Form A is underutilized by reporting facilities under the current eligibility requirements. EPA has estimated that there are potentially 4,633 facilities that are eligible to use this 1 million pound alternate threshold but that nevertheless, file a Form R instead. If those facilities were to fully utilize the Form A Certification Statement there could potentially be an additional 10,580 Form A Certification Statements filed rather than Form Rs. (see Appendix B). With full use of the Form A option under the current 500 pound threshold, about 24% of reports would be eligible for Form A, and about 45% of all facilities could use Form A for at least one report. EPA recognizes that there are several reasons why eligible facilities might not choose to use Form A. Some facilities may wish to provide information to the public beyond what is required, either out of a sense of environmental responsibility or in order to show that they have minimal releases. Other facilities may find that the Form A does not really save much burden because they have to undertake detailed calculations to determine eligibility. However, there may also be facilities that are not using Form A simply because they are not aware of this option, or do not realize that they could save significant burden by using it. There may also be "barriers" to the use of Form A that have not been readily apparent to EPA in the past. EPA is considering ways to further increase awareness of Form A and its burden reduction potential, and to remove barriers to its use, where appropriate. Of course, EPA welcomes facilities providing full information on Form R, even when eligible to file the Form A Certification Statement instead.

Questions: EPA would like comment on whether it should revise the 1 million pound alternate threshold and if so, to what amount. Commenters should explain the basis of their proposed revisions. Commenters are also encouraged to discuss how the proposed revisions would provide meaningful burden reduction, how they would affect the practical utility of the TRI data, and how they would be consistent with the goals and statutory requirements of the TRI program. EPA is looking for comment on all aspects of this approach to modifying Form A Certification Statement eligibility and specifically requests data and other supporting information for modifying the 1 million pound alternate threshold.

EPA would also like comment on whether it should revise the 500 pound total annual reportable amount eligibility threshold and what the revised threshold should be for Form A. Commenters should explain the basis of their proposed revisions. Commenters are also encouraged to discuss how the proposed revisions would provide meaningful burden reduction, how they would affect the practical utility of the TRI data, and how they would be consistent with the goals and statutory requirements of the TRI program. EPA is looking for comment on all aspects of this approach to modifying Form A Certification Statement eligibility and specifically requests data and other supporting information for modifying the total annual reportable amount.

EPA would also like comment on whether it should change the basis of the eligibility threshold from the current "total annual reportable amount" to releases only or to a combination of

quantity released and some but not all of the other waste management quantities. Commenters should explain the basis of their proposed revisions. Commenters are also encouraged to discuss how the proposed revisions would provide meaningful burden reduction, how they would affect the practical utility of the TRI data, and how they would be consistent with the goals and statutory requirements of the TRI program. EPA is looking for comment on all aspects of this approach to modifying Form A Certification Statement eligibility and specifically requests data and other supporting information for excluding certain waste management activities from the total annual reportable amount. In particular, EPA is interested in comment on how modification to the waste management activities included in the total annual reportable amount might affect facility choices regarding waste generation and management and impact pollution prevention efforts at facilities.

EPA would also like comment on whether it should develop an enhanced Form A Certification Statement that includes some additional information on specific environmental media or waste management activities in the form of range estimates. Commenters should indicate what specific data they would include on the Form A, including specific ranges if range reporting is used. EPA would also like comment on the additional burden of range reporting to those facilities that presently qualify for the current Form A Certification Statement. Commenters should explain the basis of their proposed revisions. Commenters are also encouraged to discuss how the proposed revisions would provide meaningful burden reduction, how they would affect the practical utility of the TRI data, and how they would be consistent with the goals and statutory requirements of the TRI program. EPA is looking for comment on all aspects of this approach to modifying the Form A Certification Statement and specifically requests data and other supporting information for developing an enhanced Form A Certification Statement that includes additional waste management information in the form of range estimates.

Further, EPA is also interested in receiving comment on ways to increase awareness of the option to use the Form A Certification Statement and its burden reduction potential (e.g., through outreach efforts). In addition, the Agency would like comment on why some facilities that are eligible to use the Form A Certification Statement are not currently doing so and any suggestions for eliminating barriers to its use.

Option #4 - Creating a new, "No Significant Change" Certification Statement

Discussion and Questions:

Another burden reduction option involves the development of a new form that would allow facilities to certify to "no significant change" in TRI reporting as measured against a designated baseline year. Facilities that qualify for this no significant change certification would be relieved of their obligation to complete either the Form R or Form A Certification Statement, but instead, would file a certification statement that there has been no significant change at the facility. Submission of the no significant change certification would result in EPA posting the same information provided by the facility to EPA in the designated baseline year for the year(s) in which

the facility submitted a no significant change statement.

The baseline year could be selected by EPA and could apply to all facilities reporting to TRI that year and thereafter, for a specified number of years. Because a submission of no significant change would result in the posting of the facility's baseline year data, facilities that are new to TRI would have to wait until their second year of reporting to consider using this no significant change certification statement option.

The criteria for determining which facilities could qualify for this option could be based on a specific percentage change in total releases, a specific percentage change in total quantity managed as waste, a specific percentage change in total production, a specific set of qualitative criteria (*e.g.*, "no significant change in material inputs, production processes, pollution prevention, and waste handling or management practices"), or some combination of these. In addition, a specified absolute quantity could be used to define a threshold below which any change in releases or total quantity managed as waste would be considered not significant, regardless of its percentage relative to the designated baseline year. For example, changes in releases or total quantity managed as waste of no greater than 100 pounds for non-PBT chemicals could be eligible for this option regardless of whether such a change represented more than the specified percentage. Conversely, a specified absolute quantity could also be used to define a threshold above which any change in releases or total quantity managed as waste would be considered significant, regardless of its percentage relative to the designated baseline year.

Note that the burden reduction associated with this option, will depend significantly on how the option is structured. For example, if facilities are required to calculate releases or quantities associated with other waste management activities, there may not be significant burden reduction, though the option to define any change below a specified threshold as non-significant might still reduce burden for facilities with very small quantities. Conversely, a qualitative criterion may provide significant burden reduction but less certainty that the facility really has experienced no significant change. Further, the actual completion of the Form R or Form A Certification Statement under circumstances where no significant change has taken place may not entail significant burden under the current requirements. For example, the load module in *TRI-ME* enables facilities to populate almost every data element on the current year form with data from the prior year. The facility can then alter those data elements, if there are any, that may have changed under circumstances where there was no significant change at the facility. However, one possible advantage of the no significant change certification might be that it would allow the public to note the facility's certification to "no significant change" to the reportable amounts instead of having to compare, across reporting years, each of the Form R data elements reported by the facility.

Questions: EPA would like comment on whether it should consider the development of a new form that would allow facilities to certify to "no significant change" in TRI reporting as measured against a designated baseline year. EPA is seeking comment on how to designate the baseline year and on how many consecutive years a facility should be permitted to use this

option before being required to establish a new baseline year by filing a new Form R. EPA is looking for comment on all aspects of a "no significant change" certification and specifically requests data and other supporting information for determining the baseline year and the number of consecutive years permitted between baseline years.

Further, EPA is requesting comment on the eligibility criteria that should be used to determine when no significant change has taken place at a facility. EPA is looking for comment on whether a specific percentage change in total releases, a specific percentage change in total quantity managed as waste, a specific percentage change in total production, a specific set of qualitative criteria (e.g., "no significant change in material inputs, production processes, pollution prevention, and waste handling or management practices"), some combination of these, or some other criteria should serve as the criteria for determining when no significant change has taken place. EPA is also interested in suggestions regarding what documentation would be needed for facilities to demonstrate compliance with the eligibility criteria, whether qualitative or quantitative. Further, EPA is asking for comment on whether the criteria should also include a specified quantity such as 100 pounds for non-PBT chemicals that would be considered not significant regardless of whether such a change represented more than the specified percentage change between the year under consideration and the designated baseline year. EPA is also requesting comment on whether the criteria should include a specified quantity that would always be considered a significant change, regardless of the quantity in the baseline year. EPA also requests comment on how this option should be structured to most appropriately balance burden reduction while continuing to maintain the practical utility of the data. EPA also requests comment on whether the current option to use TRI-ME to initially populate the Form R with the previous year's data affects the value and potential burden reduction associated with this option. Finally, EPA requests comment on whether this option should be available for PBT chemicals, and if so, what the criteria for "no significant change" for these chemicals should be.

Commenters should explain the basis of their proposed revisions. Commenters are also encouraged to discuss how the proposed revisions would provide meaningful burden reduction, how they would affect the practical utility of the TRI data, and how they would be consistent with the goals and statutory requirements of the TRI program. EPA is looking for comment on all aspects of a "no significant change" certification and specifically requests data and other supporting information for the criteria that could be used to determine when no significant change has taken place at the facility.

Option #5 - Use of Range Reporting for Section 8 of the Form R

Discussion and Questions:

EPA currently allows range reporting for non-PBT chemicals in Sections 5 and 6 of the Form R. For each of the specific data elements in these two sections, if the reportable amount is less than 1,000 pounds, the amount may be reported either as an estimate or by using the following range

codes: A (1 - 10 pounds); B (11 - 499 pounds); or C (500 - 999 pounds). For releases to any medium that amount to 1,000 pounds or more for the year, the facility must provide an estimate in pounds. Range reporting is not currently employed in Section 8 of the Form, which is derived from the information in Sections 5 and 6. Facilities reporting in ranges in Sections 5 and 6 still must report numbers for the same information in calculating the data items in Section 8. Under this option, EPA would apply the current use of range reporting in Sections 5 and 6 of the Form R to Section 8 of the Form R.

Questions: EPA would like comment on whether it should allow for use of range reporting in Section 8 of the Form R. Specifically, should EPA apply the current use of range reporting in Sections 5 and 6 of the Form R to Section 8 of the Form R. Commenters should explain the basis of their position on this option. Commenters are also encouraged to discuss how this option would provide meaningful burden reduction, how it would affect the practical utility of the TRI data, and how it would be consistent with the goals and statutory requirements of the TRI program. EPA is looking for comment on all aspects of applying range reporting to Section 8 and specifically requests data and other supporting information on whether range codes should be used in Section 8.

Option #6 - Other Options for Burden Reduction

Discussion and Questions:

EPA considered other options which it decided not to include as specific options in this paper. For example, EPA considered an option that would afford reporting relief to those facilities that report zero releases on their Form R reports. The Agency decided not to include this approach as one of the specific options in this stakeholder dialogue paper because EPA questions whether such an approach would result in significant burden reduction given that facilities would first have to determine that there were no releases in order to qualify. Further, EPA is concerned that relief from reporting based solely on zero releases would result in the loss of reporting on other waste management activities taking place at the facilities. The Agency believes that some of the other options discussed above may provide more meaningful burden relief to facilities that report zero releases, while better maintaining the practical utility of the data. However, EPA will consider comments received on an approach to burden reduction based on zero releases. The Agency is particularly interested in how such an approach reduces burden and whether there would be a significant loss in reporting of other waste management activities.

EPA also considered but decided not to include alternate year reporting as a specific option in this paper. The Agency decided not to include this approach because we believe that the "no significant change" option discussed above may be a better way of providing a similar form of burden reduction. Like the zero releasers option, while the Agency decided not to include alternate year reporting as a specific option in this paper, the Agency will consider comments received on such an approach to burden reduction.

Finally, some reporters have indicated that updates to guidance documents have required facilities to devote additional time to training and program familiarization, which contributes to the overall burden of complying with TRI. EPA is interested in how it can best address these concerns.

Questions: EPA would like comment on any other burden reduction options in addition to those discussed in this stakeholder dialogue paper. Commenters should explain the basis of their proposed revisions. Commenters are also encouraged to discuss how the proposed revisions would provide meaningful burden reduction, how they would affect the practical utility of the TRI data, and how they would be consistent with the goals and statutory requirements of the TRI program.

Request for Comment on the Ongoing Toxics Release Inventory - Made Easy (TRI-ME) Software Initiative; Enhancing the TRI-ME Software

Discussion and Questions:

As noted above, one of EPA's burden reduction initiatives is its award-winning *TRI-ME* software. Preliminary statistics indicate that about 90% of the 2003 reports were prepared using *TRI-ME*. As part of EPA's on-going commitment to enhance and improve *TRI-ME*, EPA is soliciting feedback on the strengths and weaknesses of the current software. EPA will continue to update and enhance the *TRI-ME* software.

A number of enhancements could potentially be added to the *TRI-ME* software. For example, release estimation tools could be incorporated into the software. Enhanced validation logic could also be included in the software making it less likely for errors to be submitted to EPA. In addition, interfaces between *TRI-ME* and facility spreadsheets and databases could be included, enabling facilities to load into the threshold determination portion of *TRI-ME* large amounts of chemical information about the mixtures and materials used at the facility. Another possibility is that the submission module in *TRI-ME*, which allows facilities to submit their forms electronically to EPA over the Internet via CDX, could be extended to allow simultaneous submission to the appropriate State agency as required by the statute. Some of these enhancements would be technically challenging and demand significant resources. EPA is still exploring how they could be implemented.

Questions: EPA would like comment on ways to improve the TRI-ME software. EPA is requesting that commenters describe both the recommended improvement and its burden reduction potential. EPA would specifically like comment on the enhancements discussed above, as well as any others that commenters may wish to suggest. Commenters should describe, in detail, how they would like the enhancement to work and explain how it would reduce the burden associated with reporting, or improve the accuracy of the data. EPA also requests comment on any problems or limitations users have encountered with the current software, along with specific suggestions for addressing them.

Appendix A

SUMMARY STATISTICS FOR TRI REPORTERS (RY 2001)								
	Facilities with <20 employees¹		Parent Companies with <20 employees¹		Facilities with <50 employees¹		Parent Companies with <50 employees¹	
	Estimated Number²	Percent of Total³	Estimated Number²	Percent of Total³	Estimated Number²	Percent of Total³	Estimated Number²	Percent of Total³
Facilities	2,924	12%	826	3%	6,947	28%	2,598	10%
Parent Companies	1,754	17%	696	7%	4,194	41%	2,412	24%
Form R's	9,605	12%	1,721	2%	19,686	24%	4,962	6%
Form A's	2,024	16%	551	4%	4,884	40%	1,786	15%
Total On-Site Releases	398,766,614	7%	19,055,036	0.3%	597,442,353	11%	45,852,223	0.8%
Total Production Related Waste	2,982,491,462	11%	275,091,086	1%	4,487,844,194	17%	494,335,475	2%
Average Revenue of Parent	\$1,952,950,969		\$6,152,320		\$953,364,481		\$6,842,023	
Median Revenue of Parent	\$15,000,000		\$1,300,000		\$7,096,453		\$2,700,000	

¹ When employment was shown in D&B as "0" it was classified as <20 or <50 employees.

² Derived by multiplying the percentage (based on non-missing values) * estimated total number.

³ The percentage is based on non-missing values only.

SUMMARY STATISTICS FOR TRI REPORTERS (RY 2001)								
	Facilities with <100 employees¹		Parent Companies with <100 employees¹		Small Parent Companies (Based on SBA Definitions)		Not Small Parent Companies (Based on SBA Definitions)	
	Estimated Number²	Percent of Total³	Estimated Number²	Percent of Total³	Estimated Number²	Percent of Total³	Estimated Number²	Percent of Total³
Facilities	10,938	44%	4,321	17%	7,674	31%	17,222	69%
Parent Companies	5,468	54%	3,956	39%	6,493	64%	3,629	36%
Form R's	30,816	37%	8,639	10%	16,239	20%	66,979	80%
Form A's	7,056	57%	2,749	22%	4,207	34%	8,088	66%
Total On-Site Releases	991,240,140	18%	71,684,870	1.3%	209,042,984	4%	5,371,285,698	96.3%
Total Production Related Waste	7,752,073,997	29%	1,574,936,115	6%	2,880,103,010	11%	23,855,934,292	89%
Average Revenue of Parent	\$710,441,263		\$9,202,578		\$22,923,844		\$1,691,884,055	
Median Revenue of Parent	\$9,150,000		\$4,500,000		\$9,369,339		\$197,000,000	

¹ When employment was shown in D&B as "0" it was classified as <100 employees.

² Derived by multiplying the percentage (based on non-missing values) * estimated total number.

³ The percentage is based on non-missing values only.

Appendix B

The tables below present impacts from increasing the levels of the production-related waste threshold for Form A Certification Statement eligibility. These analyses are based on data received for TRI reporting year 2001 (submitted in calendar year 2002). **Table 1** presents the 2001 use and potential use of the Form A. **Table 2** presents the estimated potential impacts on reporting facilities when the production-related waste threshold is increased from the current level of 500 lbs. to 1000, 2000 and 5000 lbs. **Table 3** presents the estimated impacts in terms of data lost under the same scenarios presented in **Table 2**. **Table 4** presents the estimated impacts in terms of data lost under the 500, 1000, 2000, and 5000 pound scenarios when the threshold is modified from 8.1 through 8.7 to 8.1 only. **Table 5** presents the estimated impacts in terms of data lost under the 500, 1000, 2000, and 5000 pound scenarios when the threshold is modified from 8.1 through 8.7 to the aggregate of 8.1, 8.6 and 8.7.

Table 1. Reporting Year 2001 Use and Potential Use of the Form A Certification Statement

	Number of Chemicals Reported on Form A	Percent of Total Forms	Number of Facilities	Percent of All Facilities
Submitted	12,356	12.8	5,156	20.6
Submitted plus Potential Form As	22,936	23.9	9,789	39.1

Notes:

1. "Number of Facilities" refers to the number of facilities that submitted at least 1 Form A Certification Statement.
2. "Potential Form As" are Form Rs that have a total of current year section 8.1 through 8.7 of 500 lbs. or less (it does not exclude those facilities that may have exceeded the 1 million pound reporting threshold since EPA does not have a method to make that estimate).

Table 2: Estimated Impacts of Various Options on Reporting Facilities (based on 2001 data)

Scenario	Level (lbs)	Number of Form Rs Lost	Number of Facilities Potentially Affected			
			At Least 1 Form A	Percent of Total Facilities	All Reports on Form A (No Form R)	Percent of Total Facilities
Current Basis (8.1 thru 8.7)	500-full use	10,649	9,789	44.6	4,607	21.0
	1000	13,920	10,705	48.7	5,177	23.6
	2000	17,626	11,662	53.1	5,960	25.7
	5000	23,128	13,255	60.3	7,275	33.1

Table 3: Estimated Impacts of Various Options (based on 2001 data)

		(1)	(1a)	(2)	(2a)	Chemicals on Form A Only (3)			
Option	Level (lbs)	Production-Related Waste (8.1.thru 8.7) Pounds not reported on Form R	Percentage of Production - Related Waste (8.1 thru 8.7)	Releases (8.1 + 8.8) Pounds not reported on Form R	Percentage of Releases (8.1 + 8.8)	No. of chemicals for which all reporting qualifies for Form A	No. of Form Rs for those chemicals for which all reporting qualifies for Form A	Quantity(lbs) (8.1-8.7) associated with the Form Rs for those chemicals for which all reporting qualifies for Form A	Quantity (lbs) (8.1 + 8.8) associated with the Form Rs for those chemicals for which all reporting qualifies for Form A
Current Basis (8.1 thru 8.7)	500-Full Use	1,311,453	.005	3,516,808	.0006	46	32	3,927	1,720
	1000	3,700,992	.0141	5,174,818	.0009	51	40	8,082	3,303
	2000	9,115,790	.0348	8,538,883	.0015	60	58	26,040	12,354
	5000	27,392,449	.1046	18,065,218	.0031	72	93	84,490	19,171

Notes:

1. Total Production-Related Waste (sum 8.1 through 8.7) for reporting year 2001 is 26,190,183,752 pounds (PBTs were excluded from this total).
2. Total "Releases" including releases from non-production related activities (sum 8.1 plus 8.8) for reporting year 2001 is 5,775,846,359 (PBTs were excluded from this total).
3. Chemicals for which all submissions may be limited to Form As (523 toxic chemicals were active in the TRI program in reporting year 2001. Total chemicals reported in 2000 was 529).

Table 4: Estimated Impacts of Various Options (based on 2001 data)

		(1)	(1a)	(2)	(2a)	Chemicals on Form A Only (3)			
Option	Level (lbs)	Production-Related Waste (8.1.thru 8.7) Pounds not reported on Form R	Percentage of Production - Related Waste (8.1 thru 8.7)	Releases (8.1 + 8.8) Pounds not reported on Form R	Percentage of Releases (8.1 + 8.8)	No. of chemicals for which all reporting qualifies for Form A	No. of Form Rs for those chemicals for which all reporting qualifies for Form A	Quantity (lbs) (8.1-8.7) associated with the Form Rs for those chemicals for which all reporting qualifies for Form A	Quantity (lbs) (8.1 + 8.8) associated with the Form Rs for those chemicals for which all reporting qualifies for Form A
Modified Basis for Threshold (8.1)	500-Full Use	2,803,815,713	10.7	7,658,493	.0013	166	375	13,039,409	23,029
	1000	3,419,890,789	13.0	11,745,444	.0020	184	467	26,039,794	158,432
	2000	4,146,167,834	15.3	18,922,856	.0033	207	660	53,606,110	274,021
	5000	5,548,546,646	21.1	39,590,428	.0069	237	1072	166,113,887	519,621

Notes:

1. Total Production-Related Waste (sum 8.1 through 8.7) for reporting year 2001 is 26,190,183,752 pounds (PBTs were excluded from this total).
2. Total "Releases" including releases from non-production related activities (sum 8.1 plus 8.8) for reporting year 2001 is 5,775,846,359 (PBTs were excluded from this total).
3. Chemicals for which all submissions may be limited to Form As (523 toxic chemicals were active in the TRI program in reporting year 2001. Total chemicals reported in 2000 was 529).

Table 5: Estimated Impacts of Various Options (based on 2001 data)

		(1)	(1a)	(2)	(2a)	Chemicals on Form A Only (3)			
Option	Level (lbs)	Production-Related Waste (8.1.thru 8.7) Pounds not reported on Form R	Percentage of Production - Related Waste (8.1 thru 8.7)	Releases (8.1 + 8.8) Pounds not reported on Form R	Percentage of Releases (8.1 + 8.8)	No. of chemicals for which all reporting qualifies for Form A	No. of Form Rs for those chemicals for which all reporting qualifies for Form A	Quantity (lbs) (8.1-8.7) associated with the Form Rs for those chemicals for which all reporting qualifies for Form A	Quantity (lbs) (8.1 + 8.8) associated with the Form Rs for those chemicals for which all reporting qualifies for Form A
Modified Basis for Threshold (8.1, 8.6, and 8.7)	500-Full Use	1,391,929,734	5.31	6,034,870	.0010	52	43	363,567	1,785
	1000	1,687,335,594	6.44	8,735,162	.0015	60	57	591,767	5,919
	2000	2,002,411,486	7.64	13,799,575	.0024	69	79	616,800	15,129
	5000	2,551,464,744	9.74	27,704,162	.0048	82	121	864,684	41,708

Notes:

1. Total Production-Related Waste (sum 8.1 through 8.7) for reporting year 2001 is 26,190,183,752 pounds (PBTs were excluded from this total).
2. Total "Releases" including releases from non-production related activities (sum 8.1 plus 8.8) for reporting year 2001 is 5,775,846,359 (PBTs were excluded from this total).
3. Chemicals for which all submissions may be limited to Form As (523 toxic chemicals were active in the TRI program in reporting year 2001. Total chemicals reported in 2000 was 529).